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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 ISRAEL SOTO (2),
14 Defendant.

Case No. 14cr216-MMA-2

**ORDER RE: DEFENDANT'S
MOTION FOR JUDICIAL
RECOMMENDATION**

[Doc. No. 740]

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16 Defendant Israel Soto pleaded guilty to Counts 1 and 3 of a Superseding
17 Indictment, for possessing with intent to distribute, and conspiring to distribute,
18 methamphetamine, in violation of Title 21, United States Code, section 841(a)(1) and
19 846. *See* Doc. No. 571. On March 26, 2018, the Court entered a judgment committing
20 Defendant to the custody of the Federal Bureau of Prisons for a total term of 135 months.
21 *See* Doc. No. 626. Defendant, proceeding *pro se*, now moves this Court for a
22 recommendation to the Director of the Bureau of Prisons that Defendant be housed in a
23 Residential Reentry Center for twelve (12) months preceding the end of his sentence.
24 Doc. No. 740. For the reasons set forth below, the Court **GRANTS** Defendant's motion.¹
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28 ¹ The Court finds this matter suitable for determination without a response from the government.

DISCUSSION

It is incumbent on the Director of the Bureau of Prisons to “ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community.” 18 U.S.C. § 3624(c)(1). This may include transfer to a “community correctional facility,” *id.*, often referred to as either a Residential Reentry Center (“RRC”) or halfway house. The decision to transfer an inmate to an RRC during the final months of imprisonment lies within the sound discretion of the Bureau of Prisons. *See Rodriguez v. Smith*, 541 F.3d 1180, 1184–88 (9th Cir. 2008). Although sentencing courts lack the authority to designate the location of a defendant’s confinement or placement in a particular facility, a district court may recommend “a type of penal or correctional facility as appropriate.” 18 U.S.C. § 3621(b)(4)(B). An RRC is a qualifying facility, and the Ninth Circuit has indicated that district courts have “the authority to make (or not make) non-binding recommendations to the Bureau of Prisons at any time . . .” *United States v. Ceballos*, 671 F.3d 852, 856 n.2 (9th Cir. 2011).

This Court’s regular practice is to make recommendations to the Director of the Bureau of Prisons regarding a defendant’s placement, if any, at the time of sentencing. The Court then includes the recommendation in the judgment of conviction. For example, in this case the Court recommended at the time of sentencing that Defendant be placed in a Residential Drug Abuse Program and housed at the Federal Correctional Institute at Terminal Island. These recommendations appear in the judgment. *See* Doc. No. 626 at 2.

Nevertheless, the Ninth Circuit has indicated that district courts have “the authority to make (or not make) non-binding recommendations to the Bureau of Prisons at any time—including but not limited to—during the sentencing colloquy.” *United States v. Ceballos*, 671 F.3d 852, 856 n.2 (9th Cir. 2011).

1 This is Defendant's third motion for a judicial recommendation. Previously,
 2 Defendant moved the Court to recommend relocation to an RRC in May 2019, Doc.
 3 No. 679, and August 2020, Doc. No. 697. The Court denied both motions, finding that
 4 his requests were premature in light of his anticipated release date. *See* Doc. Nos. 680,
 5 698.

6 Defendant is currently set to be released from custody on October 30, 2022 and is
 7 eligible for home detention on April 30, 2022.² Therefore, Defendant is now statutorily
 8 eligible for transfer to an RRC and his request is timely. *See* 18 U.S.C. § 3624(c)(1); *see*
 9 *also United States v. Bragg*, No. 12cr3617-CAB, 2021 U.S. Dist. LEXIS 229337, at *2
 10 (S.D. Cal. Nov. 30, 2021) ("When the BOP decides to release a prisoner to a RRC can
 11 depend on the inmate's accumulation of time credits earned through rehabilitative prison
 12 programming, *see* 18 U.S.C. 3632(d), but it generally cannot exceed 12 months. *See* 18
 13 U.S.C. 3624(c).").

14 Although the Court is generally reluctant to depart from its usual practice of
 15 recommending placement at a particular facility at the time of sentencing, in this case the
 16 Court finds that a recommendation of placement at an RRC is appropriate here.
 17 Defendant has eloquently articulated factors favoring his request and previously informed
 18 the Court and provided documentation of his accomplishments during his term of
 19 incarceration. *See* Doc. No. 679 at 2, 6–17, 19; Doc. No. 697 at 1–2. The Court also
 20 finds it particularly important for an individual with Defendant's history of criminal
 21 activity and substance abuse to spend a portion of his sentence "under conditions that will
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 24 ² According to Defendant's motion, as of February 2, 2022, he has "8 months to release due to F.S.A.
 25 credits." Doc. No. 740 at 2. In support of his motion, Defendant attaches a Sentence Monitoring
 26 Computation Data document indicating that he is projected for release on October 30, 2022. *Id.* at 4.
 27 However, the Bureau of Prisons' website indicates that his projected release date is October 17, 2023.
 28 *See* Federal Bureau of Prisons Online Inmate Locator, available at <https://www.bop.gov/inmateloc> (last
 visited 02/25/2022). Due to the importance of his anticipated release date as to the timeliness of his
 motion, the Court independently contacted the Bureau of Prisons Designation Sentencing Computation
 Center and learned that Defendant is anticipated for release on October 30, 2022 and is eligible for home
 detention on April 30, 2022.

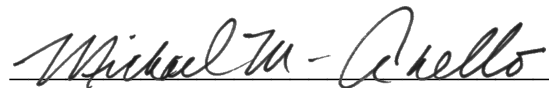
1 afford [him] a reasonable opportunity to adjust to and prepare for . . . reentry . . . into the
2 community.” 18 U.S.C. § 3624(c)(1). Furthermore, the Court notes that special
3 condition number 4 of Defendant’s supervised release requires him to reside in an RRC
4 for a period of up to 120 days. *See* Doc. No. 626 at 4. Accordingly, placement in an
5 RRC prior to the commencement of his supervision seems appropriate and the Court will
6 so recommend. However, the Court defers to the Bureau of Prisons’ determination as to
7 the appropriate period of months.

8 **CONCLUSION**

9 Based on the foregoing, the Court **GRANTS** Defendant’s motion. The Court
10 **RECOMMENDS** to the Director of the Bureau of Prisons that Defendant be placed in an
11 RRC for some period of months, not to exceed the statutory maximum, prior to the end of
12 his custodial term.

13 **IT IS SO ORDERED.**

14 Dated: February 28, 2022

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16 HON. MICHAEL M. ANELLO
17 United States District Judge
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